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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,283	06/09/2004	James P. Brady	04-13276	8208

25189 7590 09/23/2005
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EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,283

Applicant(s)

BRADY, JAMES P.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/22/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

This is the first Office Action corresponding to original filing. The application contains 20 claims, numbered 27 through 46.

Response to Amendment

The remarks presented in the preliminary amendment are confusing. Applicant refers to an election but a review of the parent case does not present any election requirement. Also confusing are the remarks making reference to method claims; there are no method claims in the instant application.

Information Disclosure Statement

Receipt is acknowledged of Information Disclosure Statement filed Feb 22, 2004, which has been reviewed by the Examiner.

Drawings

Drawings filed June 9, 2005 are accepted by the examiner.

Specification

The disclosure is objected to because of the following informalities: the continuity data of the instant application is wrong, and must be updated. On page 10, line 10, 360 degrees apparently should be 180 degrees.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 27-32, 34, 35, and 43-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 lacks a proper antecedent for “the speaker” (see line 4), and in the last line, “the second” apparently should be - - the first - -.

Claim 34 is confusing; in line 2, “the second member” apparently should be - - the third member - -.

Claim 43 is confusing; in line 3, “the second” (second occurrence) apparently should be - - the third - -.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 27, 31, 32, 33, 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Petersen (Pat No 5,282,251).

Regarding claims 27, 31 and 32, the patent to Petersen discloses a support structure comprising a first elongated member (2) and a second elongated member (3) substantially

perpendicular to each other, a speaker (5) is pivotally/rotatable secured to one end of the first member. The second member is capable of rotate with respect to a base.

Regarding claims 33, and 39-42, the patent to Petersen discloses a generally U-shaped member comprising a first member (2), a second member (32) and a third member (18), with a speaker pivotally/rotatable secured to the first and third members. The second member being capable of being pivotally coupled to a base.

Claim Rejections - 35 USC § 103

Claims 30, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen.

To make the first and third members telescopic is considered to be an obvious matter of engineering choice to adjust the height of the members so that the speakers can be adjusted to the user's preference.

Allowable Subject Matter

Claims 28, 29, 34 and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 43-46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor ROBERT OLSZEWSKI, can be reached on (571) 272-6788.

The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A shortened period for response to this Office Action expires THREE MONTHS
from the mailing date of this action.

ROR
September 19, 2005


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632